HON'BLE SRI JUSTICE C.V.NAGARJUNA REDDY

WRIT PETITION No. 28148 of 2007

28.12.2007

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Between:

Smt. S. Shanti

… Petitioner

AND

Greater Hyderabad Municipal Corporation,
Alwal Circle,
Rep. by its Deputy Commissioner,
Alwal, Secunderabad.

… Respondent

Counsel for the petitioner : Sri C.M.R. Velu

Counsel for the respondent : Sri R. Ramachandra Reddy

O R D E R:

This writ petition is filed for a writ of mandamus to declare show cause notice dated 12.12.2007 issued to the petitioner by the Deputy Commissioner, Greater Hyderabad Municipal Corporation, Alwal Circle (the respondent herein) as illegal.

The petitioner was granted building permission on 22.08.2007 by the respondent. By the impugned show cause notice, the petitioner was called upon to file her explanation within seven days as to why the said permission shall not be suspended till the case before the Joint Collector, Ranga Reddy District is finalized. The petitioner claims that she submitted her explanation on 17.12.2007 and that so far, no orders have been passed.

Heard Sri C.M.R. Velu, learned counsel for the petitioner and Sri R. Ramachandra Reddy, learned Standing Counsel for the

respondent.

Learned counsel for the petitioner submitted that the power under Section 344(6) of the Hyderabad Municipal Corporations Act, 1955 (for short, 'the Act') is sought to be abused by the respondent by issuing the show cause notice. According to him, no grounds are mentioned in the impugned show cause notice to exercise power under Section 344(6) of the Act.

Learned Standing Counsel appearing for the respondent, on instructions, stated that the petitioner has not so far submitted her explanation. He further stated that though Section 344(6) is mentioned in the show cause notice, the proper provision under which the respondent has power to take the proposed action is Section 450 of the Act.

In view of the fact that the proceedings before the respondent are pending, I am not inclined to go into the merits of the above-mentioned contentions. It is not the case of the petitioner that the respondent has no jurisdiction to issue the impugned show cause notice. Therefore, in the absence of the plea of lack of jurisdiction on the part of the respondent, I am not inclined to entertain this writ petition, at this stage.

Though the petitioner claims that she has already made a representation, the learned Standing Counsel for the respondent denied the same.

The writ petition is, therefore, dismissed. However, it is directed that the respondent shall pass final orders on the impugned show cause notice after considering the explanation, if any filed by the petitioner within a period of three weeks from the date of receipt of a copy of this order. It is made clear that if the petitioner is aggrieved by the order that may be passed by the respondent, she shall be free to avail appropriate legal remedy to question such order.

As a sequel to dismissal of the writ petition, W.P.M.P.No. 36786 of 2007 filed by the petitioner for interim relief is also dismissed.

C.V.NAGARJUNA REDDY, J

28.12.2007
Note:
Issue CC in five days.
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